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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,634	04/05/2001	Francis S. Nakayama	0217.97R	5519

25278 7590 03/19/2002

USDA-ARS-OFFICE OF TECHNOLOGY TRANSFER  
PATENT ADVISORS OFFICE  
WESTERN REGIONAL RESEARCH CENTER  
800 BUCHANAN ST  
ALBANY, CA 94710

EXAMINER
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RAJGURU, UMAKANT K

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 03/19/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-19 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-19 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4 & 7
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 1711

### DETAILED ACTION

1. Claims 1-19 are under examination.
2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3, 4, 6, 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims are vague in reciting "ssp" in <sup>ne</sup> ~~line~~ 1 because it is not clear what "ssp" stands for.

Claim 16 is further indefinite in failing to point out and distinctly claim <sup>what is</sup> ~~what is~~ *withdrawn*  
*Sp 26, 2002*  
encompassed by scope of this claim.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

Art Unit: 1711

the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kay et al (USP 4647607) in view of Bultman et al (Proceedings of 4th international conference; Dec. 1986, p. 353-356).

(Both references are on PTO-1449 paper nos 7 and 4 resp)..

Kay discloses synthetic rubber with guayule resin stabilization (abstract). Rubbers that can be stabilized are those with the ethylenic unsaturation including styrene-butadiene, ethylene-propylene copolymer etc (col. 2, lines 45-53). Guayule resin is added at 0.5 to 20 parts by wt. per 100 parts by wt of synthetic rubber (co. 3, lines 42-46). Guayule plant, which produces guayule resin, is processed (col. 3, lines 1-37) by a certain method.

Kay fails to disclose Parthenium plant (of instant claim 1).

Bultman describes the evaluation of guayule resin as a pesticide. Parthenium argentatum is a guayule plant from which guayule resin is obtained (p. 353, paragraphs 1 and 2).

It would therefore have been obvious to one of ordinary skill in the art that the guayule resin used by Kay is obtained from Parthenium argentatum plant (as disclosed by Bultman).

Prior art is silent about bagasse (of instant claim 3), various forms of plant material (of instant claim 6), thermosetting polymers (of instant claim 1), virgin and recycled plastic (of instant claim 13) and particle board or fiberboard (of instant claim 15). It is the examiner's

Art Unit: 1711

position- that it would have been obvious to a person of ordinary skill in the art to (a) use bagasse of a plant in order to minimize waste (since bagasse may contain some useful grayule resin), (b) use thermosetting polymers, virgin as well as recycled plastic since these polymers are also expected to be equally suitable like those disclosed by Kay and also (c) make articles like particle board or fiber board since these articles are conventionally made from plant materials.

Prior art is also silent on termite infestation, resistance to fungi and termite (of instant claims 17-19). Since the prior art discloses a composition having (claimed) ingredients, in proportions that are similar to or overlap those that are claimed, it is reasonable to assume that the disclosed composition inherently satisfies limitations encompassed by instant claims 17-19.

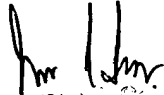
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to U.K. Rajguru whose telephone number is (703) 308-3224. The examiner can normally be reached on Monday-Friday from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck, can be reached on (703) 308-2462. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310/9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
UKRajguru:evh

3/11/02

  
James J. Seidleck  
Supervisor  
Art Unit 1711  
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